



A Framework for Deciding Issues in Ethics

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ABSTRACT

DISCUSSES THE ADVANTAGES and disadvantages of two ethical theories—consequentialism and deontology—as bases for reasoning about ethical principles in general and intellectual freedom in particular. Concludes that a deontological defense of intellectual freedom is safer than a defense on consequentialist grounds.

INTRODUCTION

When one asks, “Why did person *P* do action *A*?” one may be asking a question about *P* or a question about *A*. If one interprets the question as asking what caused *P* to do *A*, then we are asking for information about person *P* such as was he abused as a child, stressed by his job, or suffering from a brain tumor. If one interprets the question as asking what reasons *P* had for doing *A*, then we are asking about the nature of the action *A*; on what basis might *P* (or anyone else) justify doing *A*? This article will be concerned with the latter problem: How can we provide reasons for or against a course of action?

One hundred years ago this topic was better understood than it is today. Perhaps you have watched episodes of the TV series *Ethics in America*.¹ What you saw was a discussion leader posing moral dilemmas to distinguished guests and then asking them how they felt about the problem or what they thought they would do. The guests would introspect to see how they felt or guess what they might do. This is not reasoning about ethics. Only a few of the guests were explicitly committed to sets of principles against which they

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tested their options. Their reasoning from principles to choices was not the focus of the program and a more abstract reasoning about the principles themselves was not part of the show. To many of our contemporaries, ethics is no more than it is on that series—introspecting how one feels about morally significant choices.

It was different before our culture felt the influence of Freud in particular and the social sciences in general. It is these influences that prompt us to construe the question “Why did *P* do *A*?” as a question of causes (with which the social sciences deal) instead of a question about reasons. This perspective has become so common that people often forget that there is another issue to be considered. Never mind what caused *P* to do *A*, should she have done it? This question asks if there are reasons for *P* to do *A* (whether or not *P* is aware of those reasons). If there are justifying reasons, then those reasons apply to us as well. The results we obtain when looking for reasons tell us not only what *P* should have done but also what anyone relevantly similar to *P* should do.

Unfortunately, the perspective of the social sciences has become so prevalent that it is common to find people who question whether or not it is even possible to reason about ethics. It will be demonstrated here that it is and, at the same time, introduce a method of ethical reasoning. Consider the Golden Rule: Do unto others as you would have them do unto you. People who do not reflect much on these matters often cite this as an acceptable moral principle. It isn't and I hope that I can lead you to uncover its flaws. The most obvious problem is that this should not be the guiding moral principle of a masochist who would hurt others because he wishes them to hurt him. What we have done is find a counterexample to the proposed moral principle. A counterexample is an example of the principle (the masochist who hurts others is treating them as he wishes to be treated) but counter to personal intuitions about ethics or to another the purported moral principle that one should not harm the innocent.

Counterexamples to the Golden Rule are not limited to those involving people such as the masochist. Otherwise it could be said that for all who are not masochists the Golden Rule is an acceptable moral principle. Another counterexample to the Golden Rule is that, if obeyed as a moral principle, it would prohibit putting criminals in jail since we do not wish to be placed in jail. In this case we find a practice that ethical intuitions tell us is just (penalizing the guilty), and note that this runs counter to the principle in question—i.e., the Golden Rule. The method of counterexample will not prove that the purported ethical principle is a poor one. If one can produce a counterexample to a purported ethical principle, then either the principle is wrong or else the example counter to the principle is

wrong. (Perhaps the Golden Rule is an acceptable moral principle in which case it is okay for the masochist to harm people and it is wrong to penalize the guilty.) The method of counterexamples demonstrates a conflict to be resolved without itself determining which side of the conflict is right and which is wrong. Note also that the method of counterexamples cannot prove that an ethical principle is true. If we attempt to produce a counterexample to the principle and fail, perhaps that is because the principle is invulnerable to counterexample, but then again it may be that counterexamples exist and we have failed to find them.

The point of this discussion about counterexamples to the Golden Rule is that we can reason about ethical principles. Moreover, the methods employed are similar to those of the research scientist who is reasoning about a purported scientific principle. If a counterexample can be found then there is something wrong with the principle or with the counterexample. If no counterexample can be found, then the principle is still not proven (perhaps a counterexample exists but we did not discover it), but when a principle withstands serious attempts to develop counterexamples, it is said that the principle is confirmed.

Many people base ethical judgments on principles that are prescribed by their religion or culture. However, accepting such principles as a starting point does not eliminate the need for ethical reasoning. One may accept the principle, "Thou shalt not kill" but have to decide whether letting someone die counts as an instance of killing. One may accept the principles "Thou shalt not kill" and "Thou shalt not lie" but have to resolve a conflict when the only way to prevent a killing is by telling a lie. Furthermore, the decision to accept principles prescribed by culture or religion involves ethical reasoning. The Ten Commandments are widely accepted (in part) because they seem ethically reasonable and not simply because they are religious teachings. The Ten Commandments would not have been so readily accepted if they had stated "Kill all siblings" or "Lie to all strangers."

To assess a purported ethical principle, one needs an ethical theory. There are two important types of theory and they often—but not always—yield the same results. The theories can be used to evaluate principles and to evaluate particular courses of action. The first to be discussed is based on consequences and the second is based on a system of rights, duties, and obligations.

The theory based on consequences is often called consequentialism.² There are several varieties depending on what consequence is deemed desirable and on what parties are being considered. If one seeks the best consequences for everyone except herself, she is an

altruist. If one seeks the best consequences for everyone including herself she is a utilitarian. If one seeks the best consequences for oneself only then she is an egoist. It is generally agreed that the consequences to be sought are some sort of long range well being (as opposed to short term pleasure). There is, however, considerable disagreement about what constitutes long-term well being. For instance, is a person better off contented or discontented, cared for by others or taking care of himself.

It should be mentioned that some ethicists regard egoism as unacceptable as an ethical theory on the basis that it is merely a concern with one's own well-being and not with that of others. However, the enlightened egoist will realize that to promote her own happiness, she must promote that of others as well. In defense of egoism one might note that it is the only ethical theory that can answer the question (which the Greeks considered important), "Why should I be moral?"³ The answer that egoism alone can give is that it is to your advantage to be moral.

The great difficulty with consequentialist ethics is that it requires a large database of facts and huge amounts of processing time. How can one determine what is best even for oneself let alone what is best for everyone? The answer is that one never really can. Consequentialist ethics merely directs one to do one's best at the relevant cost-benefit analyses. This can be particularly difficult if one must make a decision in a short time.

A version of consequentialism has been developed to deal with this difficulty. Rule utilitarianism⁴ is a version of utilitarianism that directs us to use utilitarian principles to develop a set of rules. The rules can be developed at our leisure and then be quickly applied even in an emergency situation. It is granted that the rules may result in the wrong decision in a few cases. The suggestion is that they will serve us better than a hastily done consequentialist analysis of each individual ethical problem.

There are two pitfalls to be avoided when consequentialism is used as a basis for decision making in professional ethics. The first pitfall is to analyze benefits without attention to costs. As a consequentialist deciding whom to promote to a higher position, one must consider not only what the benefits would be of having each different candidate in the higher position, but also the costs of losing that person at the lower position and the costs of not promoting other candidates. The second pitfall is to determine the ideal state of affairs without considering the problems of how to get from here to there. One's consequentialist analysis might confirm that it would be best to have the proportion of librarians that are women and minorities equal to their proportion in the population.

One must then do a second analysis of each proposed method for achieving this goal. If there is no good way of achieving the goal, then one may have to sacrifice the goal. One cannot say the ends justify the means and thus endorse any means to a consequentially confirmed ideal goal.

The other type of ethical theory—the one based on rights, duties, and obligations—is called deontology.⁵ It is as ancient as Homeric Greece where a person's moral character was judged by how well that person carried out the duties of the person's station in life. The duties of a nobleman, a wife, and a slave were all different. Socrates then wondered what duties might be expected of any citizen, and eventually the Lutherans and Calvinists speculated on what duties God might require of any person.⁶ It is, however, with the moral philosophy of Immanuel Kant⁷ that deontology is most closely associated today.

Early in his reasoning, Kant concluded that the only thing good without exception was a good will. A person acting from good will was doing the right thing even if the consequences proved disastrous. Then Kant reasoned that a person is acting from good will if the person bases his action on what Kant called the "Categorical Imperative" (because it was not a hypothetical command such as, "If you want *A*, do *B*," but simply a command "Do *B*"). He had four ways of formulating the Categorical Imperative of which the best known is probably that you should act so that you could consistently will that everyone act the same.

For example, I cannot consistently will that everyone always lie. To do so would merely change the meaning of negation. For instance, "I am happy," would mean, "I am unhappy," etc. Furthermore, I cannot even consistently will that people sometimes lie. If we could not assume that others were speaking the truth, no language community would evolve and thus lying (at least verbally) would be impossible. A child cannot learn the meaning of the word "red" if there is no reason to presume that a person saying "This is red" is telling the truth. Since we cannot consistently will that people always, or even sometimes, lie, we must adopt the maxim that one must never lie.

Similar reasoning can lead one to establish a number of maxims to guide one's ethical decision making. One problem that arises is how to phrase the maxim: I do not want to refrain from making love to my spouse on the grounds that I cannot consistently will that everyone do so. Instead of testing the maxim, "Make love to my spouse," I want to test the maxim, "Make love to one's own

spouse” or perhaps even “Make love to one’s own spouse if both parties are healthy, willing, and co-located.” It’s sort of difficult to know how to phrase the maxim.

There are other forms of deontology besides that of Kant. for example, the American Constitution refers to the rights of man⁸ that were developed by another line of reasoning. One begins with the question, “What is the nature of man?” If the answer is that man is essentially rational, then one draws conclusions about the ethical implications: that man has a right to that which he needs in order to exercise his rationality. Thus we have a right to life, a right to assemble and discuss, a right to read and publish. Also, the rights to assemble and discuss mean we have a right to liberty.

One problem that arises with any claim concerning a person’s rights, is how to specify what is included. The best way to test a purported right is by considering the corresponding obligation. When we say, “Mary has a right to life,” do we mean merely that we are all obliged not to kill her or do we mean that we are all obliged to keep her alive? If her health care is expensive, then her right to life construed in the latter way conflicts with our rights to our own property.

Resolution of conflicts is a problem for deontological theories. One may reason out what rights a person has or on what maxims one ought to act, but this is piecemeal support for each purported right and maxim. When two maxims come into conflict (one must lie to protect the innocent), then the deontologist has no further level of reasoning to which she can appeal to resolve the problem. Each maxim is categorical and must be obeyed under all circumstances.

One hybrid ethical theory has arisen to deal with this problem. The concept of “prima facie” duties is that we can use deontological reasoning to determine what duties we all clearly have. However, in those cases where our duties come into conflict with each other, we may turn to consequentialist reasoning to resolve the conflict.

One such conflict that occurs frequently in professional ethics for information managers is between one person’s right to information and another person’s right to privacy. The suggestion is that each right can be defended on principles deriving it from, for instance, the nature of man; but when the two rights come into conflict because *A* wants information about *B* that *B* wants kept private, then the issue is to be resolved by an appeal to consequences. This might be done on a case by case basis or by reasoning out a rule utilitarian solution that would apply to all cases of a given sort.

There are both theoretical difficulties with deontological theories and pitfalls to be avoided in using these theories. One theoretical

difficulty lies with basing rights and obligations (what ought to be the case) on any version of the nature of man (what is the case). Some philosophers have argued that what *is* never entails what *ought to be*. Others point out the difficulty of establishing any such thing as the nature of man. One of the two main pitfalls of using deontological ethical theories is, as mentioned earlier, the problem of phrasing the maxim to be tested by the Categorical Imperative. The other pitfall to be avoided is claiming that there is a right without making clear its limitations. This can best be done by specifying the corresponding obligations. If you have a right to information, what is my corresponding obligation: (1) not to take information from you, (2) to provide information to you for free, (3) to provide information to you for an affordable price, (4) to educate you so that you can understand the information provided, (5) to provide a machine or person to read to you if you are blind? Am I obliged to do that? Establishing a deontological right to information is the beginning, not the end, of an ethical investigation concerning intellectual freedom.

As a case study in reasoning about information ethics, consider how one might defend intellectual freedom. One can give both consequentialist and deontological arguments for intellectual freedom, but the choice of an ethical theory upon which intellectual freedom is based can result in different decisions about what ought to be done in particular cases.

The term *intellectual freedom*, broadly construed, includes both the right to the intellectual efforts of others and a right to distribute one's own intellectual efforts. These efforts include written works, conversation, speeches, and various art forms (e.g., dance or sculpture) that can be used to communicate ideas.

To defend intellectual freedom on consequentialist grounds, one must make the case that it is best for someone (me, everyone except me, or all concerned) if information is broadly disseminated. The best known consequentialist defense of intellectual freedom comes from John Stuart Mill¹⁰ who made his defense from the negative side—restricting intellectual freedom is harmful. He argued that if we suppress ideas we may be suppressing the truth. Even if the suppressed ideas are not the truth, there may be some germ of truth in them or something that gives insights into new truths. Furthermore, even if the promoted opinion is the truth and suppressed views are completely false, people will not have as much faith and commitment to the promoted opinion if they do not see it openly debated and defended in contest with other views. For all these reasons, intellectual freedom is needed to make certain the truth is both discovered and believed.

The assumption behind this reasoning is that people are better off if the truth is known. Not everyone agrees with this. The whole point of paternalistic censorship (whether it be censorship of pornographic or racist material in the United States or censorship of political news in the Soviet Union), is that it is better for society in general and often better for individuals themselves if they are not exposed to certain sorts of ideas even if there is some truth to those ideas. The consequentialist defense of intellectual freedom then depends upon first establishing whether or not people are better off when they are exposed to all intellectual efforts. The typical result is that one starts dividing up intellectual efforts into those that are good for people and those that are not. Defending the distribution of only the former is not defending intellectual freedom in principle.

To defend intellectual freedom in principle, and not merely in those cases where it can be shown to be of benefit to someone, one needs to provide a deontological defense of intellectual freedom. One method in providing such a defense involves deriving the right to information from the nature of man. Another method involves demonstrating that one could not consistently will that information be withheld from people.

It would be inconsistent to will that the *truth* be withheld from people. If the truth were withheld from everyone, then you would not have enough evidence to decide what are the truths that are to be withheld. Withholding all information, not merely the truth, does not lead to this inconsistency. There does, however, seem to be some silliness in the suggestion that we might adopt the maxim: Withhold all information from everyone. Adopting the maxim: Withhold harmful information sounds more like a maxim that a censor might wish to act upon. While it cannot be demonstrated that there is any inconsistency involved in adopting such a maxim, it should be pointed out that it returns us to consequentialist reasoning as we must determine what information has harmful consequences. The defender of intellectual freedom can reply that one can consistently act upon the maxim: Withhold no information. To adopt this maxim is to refuse to censor information even when that information is regarded as harmful. To adopt this maxim is to say that no one needs to justify his/her request for information on any consequentialist grounds. Thus this is a "safer" ethical theory for defending intellectual freedom than is consequentialism.

One can obtain similar results if one provides a deontological defense of intellectual freedom not based on Kantian criteria for a maxim but based on rights derived from the nature of man. Assuming for the sake of argument that man's nature (or essence) is his rationality, one may argue that any attempt to limit man's ability

to reason is an attack on man's very nature, his primary mode of survival. Next, one argues that limiting man's ability to receive criticism of his own ideas and/or limiting man's access to the ideas of others would limit man's ability to reason. The conclusion is that limitations on intellectual freedom are attacks on man himself. By this reasoning all people have a right to all information regardless of whether or not that information might be harmful to them. Again, one need not justify any request for information on consequentialist grounds. Thus this deontological defense of intellectual freedom is also a "safer" defense than consequentialist defenses.

A "safer" defense is one that admits to fewer exceptions to the principle being advocated. To say that deontological defenses of intellectual freedom are "safer" is not to say that they are more ethically valid. Perhaps, as consequentialist ethics allows, there should be limits to intellectual freedom based on consequences. To say that deontological defenses of intellectual freedom are "safer" is not to say that they admit to no circumstance in which censorship is justified. It is possible that the maxim: Withhold no information may conflict with another maxim such as those protecting personal privacy or private property. As stated earlier, establishing a deontological right to information is the beginning, not the end, of an ethical investigation concerning intellectual freedom.

NOTES

1. The public television series *Ethics in America* was produced by Columbia University Seminars on Media and Society. Three books are available to those who wish to use the series in teaching ethics: a source reader, a study guide, and a preview packet. These have been published in 1989 by Prentice Hall, Englewood Cliffs, NJ.
2. Any ethics textbook will have information on both consequentialist and deontological theories. One good source for further reading is *Modern Moral Philosophy* by W.D. Hudson, published by Anchor Books Doubleday and Co. Inc., Garden City, NY in 1970. Another good source on ethics (or any other philosophical topic) is *The Encyclopedia of Philosophy* edited by Paul Edwards and published by Macmillan Publishing Co. Inc. and The Free Press, NY, 1967.
3. This topic is discussed at length in the *Republic* by Plato. In the *Nicomachean Ethics*, Aristotle assumes that it must be to our advantage to be ethical and develops an ethical theory consistent with this assumption. More recently the advantage of being ethical was a major topic in *The Moral Point of View* by Kurt Baier published by Cornell in Ithaca, NY in 1958.
4. While many versions of this theory have been developed in the last thirty years, the terminology used here was introduced by R.B. Brandt in his book *Ethical Theory* published by Prentice Hall, Englewood Cliffs, NJ in 1959.
5. The term *deontology* derives from the Greek words *deon* for duty and *logos* for science. Thus deontic ethics is the science of duty.
6. This story is told in *A Short History of Ethics* by Alasdair MacIntyre published in 1966 by Macmillan Publishing Company, NY.
7. Kant's theory is developed in the *Fundamental Principles of the Metaphysic of Morals* written in 1785. There are many English translations. The translation by L.W. Beck was published by the Library of Liberal Arts, New York, in 1963.

8. The natural rights theory that influenced the authors of the U.S. Constitution was developed by John Locke in *Two Treatises of Government*, first published in 1690. For an excellent modern discussion of natural rights theories, see William Frankena, "Natural and Inalienable Rights." *Philosophical Review*, vol. 64, 1955, 212-232.
9. The theory of "*prima facie* duties" was developed by W.D. Ross in *Foundations of Ethics*, Clarendon Press, Oxford, 1939 and *The Right and the Good*, Clarendon Press, Oxford, 1930 and by H.A. Prichard in papers that were published in the collection *Moral Obligation*, Clarendon Press, Oxford, 1949.
10. Mill's discussion of this topic is found at the end of the section titled "Of Thought and Discussion" in *On Liberty* which was first published in 1859. This work can be found in many collections including, *Utilitarianism, Liberty, and Representative Government*, by John Stuart Mill published by E.P. Dutton and Company, NY in 1951.